

§ 288h. Defense of certain constitutional powers

In performing any function under this chapter, the Counsel shall defend vigorously when placed in issue—

- (1) the constitutional privilege from arrest or from being questioned in any other place for any speech or debate under section 6 of article I of the Constitution of the United States;
- (2) the constitutional power of the Senate to be judge of the elections, returns, and qualifications of its own Members and to punish or expel a Member under section 5 of article I of the Constitution of the United States;
- (3) the constitutional power of the Senate to except from publication such parts of its journal as in its judgment may require secrecy;
- (4) the constitutional power of the Senate to determine the rules of its proceedings;
- (5) the constitutional power of Congress to make all laws as shall be necessary and proper for carrying into execution the constitutional powers of Congress and all other powers vested by the Constitution in the Government of the United States, or in any department or office thereof;
- (6) all other constitutional powers and responsibilities of the Senate or of Congress; and
- (7) the constitutionality of Acts and joint resolutions of the Congress.

(Pub. L. 95-521, title VII, §709, Oct. 26, 1978, 92 Stat. 1881.)

§ 288i. Representation conflict or inconsistency**(a) Notification**

In the carrying out of the provisions of this chapter, the Counsel shall notify the Joint Leadership Group, and any party represented or person affected, of the existence and nature of any conflict or inconsistency between the representation of such party or person and the carrying out of any other provision of this chapter or compliance with professional standards and responsibilities.

(b) Solution; publication in Congressional Record; review

Upon receipt of such notification, the members of the Joint Leadership Group shall recommend the action to be taken to avoid or resolve the conflict or inconsistency. If such recommendation is made by a two-thirds vote, the Counsel shall take such steps as may be necessary to resolve the conflict or inconsistency as recommended. If not, the members of the Joint Leadership Group shall cause the notification of conflict or inconsistency and recommendation with respect to resolution thereof to be published in the Congressional Record of the Senate. If the Senate does not direct the Counsel within fifteen days from the date of publication in the Record to resolve the conflict in another manner, the Counsel shall take such action as may be necessary to resolve the conflict or inconsistency as recommended. Any instruction or determination made pursuant to this subsection shall not be reviewable in any court of law.

(c) Computation of period following publication

For purposes of the computation of the fifteen day period in subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which the Senate is not in session because of an adjournment of more than three days to a date certain are excluded.

(d) Reimbursement

The Senate may by resolution authorize the reimbursement of any Member, officer, or employee of the Senate who is not represented by the Counsel for fees and costs, including attorneys' fees, reasonably incurred in obtaining representation. Such reimbursement shall be from funds appropriated to the contingent fund of the Senate.

(Pub. L. 95-521, title VII, §710, Oct. 26, 1978, 92 Stat. 1882.)

§ 288j. Consideration of resolutions to direct counsel**(a) Procedure; rules**

(1) A resolution introduced pursuant to section 288b of this title shall not be referred to a committee, except as otherwise required under section 288d(c) of this title. Upon introduction, or upon being reported if required under section 288d(c) of this title, whichever is later, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution. A motion to proceed to the consideration of a resolution shall be highly privileged and not debatable. An amendment to such motion shall not be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to.

(2) With respect to a resolution pursuant to section 288b(a) of this title, the following rules apply:

(A) If the motion to proceed to the consideration of the resolution is agreed to, debate thereon shall be limited to not more than ten hours, which shall be divided equally between, and controlled by, those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to the resolution shall be in order. No motion to recommit the resolution shall be in order, and it shall not be in order to reconsider the vote by which the resolution is agreed to.

(B) Motions to postpone, made with respect to the consideration of the resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(C) All appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to the resolution shall be decided without debate.

(b) "Committee" defined

For purposes of this chapter, other than section 288b of this title, the term "committee" includes standing, select, and special committees of the Senate established by law or resolution.

(c) Rules of the Senate

The provisions of this section are enacted—

(1) as an exercise of the rulemaking power of the Senate, and, as such, they shall be considered as part of the rules of the Senate, and such rules shall supersede any other rule of